

ILLINOIS REGISTER

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
120.34	Repeal
120.80	Amendment
120.347	Amendment
120.379	Amendment
120.380	Amendment
120.381	Amendment
120.385	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and P.A. 97-0689.
- 5) Effective Date: July 1, 2012
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule expires, as authorized by the SMART Act, on June 30, 2013.
- 7) Date Filed with the Index Department: June 29, 2012
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 97-0689, Save Medicaid Access and Resources Together (SMART) Act gives any agency in charge with implementing a provision or initiative in SMART, the ability to adopt rules through emergency rulemaking in order to provide for the expeditious and timely implementation of SMART. The adoption of this emergency rulemaking is deemed to be necessary for the public interest, safety, and welfare. Pursuant to Public Act 97-0689, the 150-day limitation of the effective period of emergency rules does not apply and the effective period of rules necessary to implement SMART may continue through June 30, 2013. These emergency rules are necessary to implement the provisions and initiatives of SMART.
- 10) Complete Description of the Subjects and Issues Involved: These administrative rules are authorized pursuant to Public Act 97-0689, the Save Medicaid Access and Resources Together (SMART) Act. The SMART Act terminates, as of July 1, 2012, eligibility for

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caretaker relatives in the Family Care Program who have income over 133% of the federal poverty level. The SMART Act also authorizes the tightening of the long term care asset testing policy for persons who seek to utilize institutional services.

- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
120.335	Amendment	35 Ill. Reg. 19337; December 2, 2011
120.310	Amendment	35 Ill. Reg. 19635; December 9, 2011

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

- 13) Information and questions regarding this amendment shall be directed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

The full text of the Emergency Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

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Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

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120.11 MANG(P) Eligibility  
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women  
120.14 Presumptive Eligibility for Children  
120.20 MANG(AABD) Income Standard  
120.30 MANG(C) Income Standard  
120.31 MANG(P) Income Standard  
120.32 FamilyCare Assist  
120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)  
EMERGENCY  
120.40 Exceptions To Use Of MANG Income Standard (Repealed)  
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SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

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120.60 Community Cases  
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120.62 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.  
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120.63 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings (Repealed)  
120.64 MANG(P) Cases  
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)  
Licensed Community – Integrated Living Arrangements (Repealed)

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- 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
- 120.73 Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)
- 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
- 120.75 Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1) Income Standards
- 120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section

- 120.80 Recipient Restriction Program

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SUBPART F: MIGRANT MEDICAL PROGRAM

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section

- 120.200 Elimination Of Aid To The Medically Indigent

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

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- 120.308 Client Cooperation
- 120.309 Caretaker Relative
- 120.310 Citizenship
- 120.311 Residence
- 120.312 Age
- 120.313 Blind
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- 120.318 Institutional Status
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- 120.320 Cooperation in Establishing Paternity and Obtaining Medical Support
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- 120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
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- 120.327 Social Security Numbers
- 120.328 Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
- 120.329 Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
- 120.330 Unearned Income
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- 120.346 Medicaid Qualifying Trusts
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120.390 Persons Who May Be Included In the Assistance Unit

120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later

120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy

120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project

120.399 Redetermination of Eligibility

120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

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120.500 Health Benefits for Persons with Breast or Cervical Cancer

120.510 Health Benefits for Workers with Disabilities

120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21

120.540 Illinois Healthy Women Program

120.550 Asylum Applicants and Torture Victims

120.TABLE A Value of a Life Estate and Remainder Interest

120.TABLE B Life Expectancy (Repealed)

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005.

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SOURCE: Filed effective December 30, 1977; preemptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; preemptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; preemptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective

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October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1,

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1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002,

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for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; preemptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; preemptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; preemptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; preemptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; preemptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095,

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effective June 11, 2012; emergency amendment at 36 Ill. Reg. \_\_\_\_, effective July 1, 2012, for a maximum of 365 days.

SUBPART B: ASSISTANCE STANDARDS

**Section 120.34 FamilyCare Share and FamilyCare Premium Level 1 (Repealed)  
EMERGENCY**

- a) ~~A caretaker relative (see Section 120.390) who is 19 years of age or older qualifies for medical assistance when countable income is at or below the appropriate income standard.~~
- b) ~~The caretaker relative may not be otherwise eligible for medical assistance, including Section 120.32.~~
- e) ~~The appropriate income standard is 185 percent of the Federal Poverty Income Level Guidelines, as published annually in the Federal Register, for the appropriate family size. If income is greater than this amount, the Department shall compare it to the MANG(C) Income Standard in Section 120.30 to determine the spenddown amount.~~
- d) ~~Caretaker relatives will be enrolled into either FamilyCare Share or FamilyCare Premium Level I as follows:~~
  - 1) ~~If monthly countable income is above 133 percent and at or below 150 percent of the Federal Poverty Level (FPL) for the number of persons in the family, coverage under FamilyCare Share shall be effective as established in 89 Ill. Adm. Code 110.34.~~
  - 2) ~~If monthly countable income is above 150 percent and at or below 185 percent of the FPL for the number of persons in the family, an eligible caretaker relative shall be enrolled prospectively in FamilyCare Premium Level I and premiums shall be payable as established in subsection (f)(1) of this Section. Coverage for months prior to the first prospective month of coverage as established in 89 Ill. Adm. Code 110.34 shall be dependent on payment of premiums for those months as set forth in subsection (f)(2) of this Section.~~
  - 3) ~~The first month of prospective eligibility for caretaker relatives whose eligibility for FamilyCare Premium Level I is determined by the 15<sup>th</sup> of the month will be the following month. The first month of prospective~~

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~~eligibility for caretaker relatives whose eligibility for FamilyCare Premium Level 1 is determined after the 15<sup>th</sup> day of the month will be the second month following that determination.~~

- e) ~~Caretaker relatives enrolled in FamilyCare Premium Level 1 must pay monthly premiums based upon based upon the total number of adults in the family enrolled in FamilyCare Premium Level 1 and children in the family enrolled under 89 Ill. Adm. Code 125.240(e)(2).~~
  - 1) ~~The premium amounts are \$15 for one person, \$25 for two persons, \$30 for three persons, \$35 for four persons, and \$40 for five or more persons.~~
  - 2) ~~Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.~~
  - 3) ~~The premium due date will be the last day of the calendar month preceding the month of coverage.~~
  - 4) ~~No premiums will be charged to families with an enrolled person who is an American Indian or Alaska Native.~~
- f) ~~FamilyCare Premium Level 1 premiums shall be due as follows:~~
  - 1) ~~Premiums owed for the first prospective month of coverage and each subsequent month shall be due by the last day of the month preceding the month of coverage. Participants shall have a minimum grace period through the end of the month of coverage to pay the premium. Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.~~
  - 2) ~~Coverage for the months of eligibility prior to the first prospective month of eligibility will not be authorized until the premium payment is received.~~
  - 3) ~~Partial premium payments will not be refunded.~~
- g) ~~An eligible caretaker relative becomes ineligible due to:~~
  - 1) ~~For those with countable income above 150 percent FPL, not paying the required premiums.~~

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- 2) For those with countable income above 150 percent FPL, not repaying a rebate overpayment under 89 Ill. Adm. Code 125 to the Department, according to terms established by the Department, which may include recoupment out of future rebate payments or a payment plan.
- h) Following termination of coverage under FamilyCare, the following action is required before the caretaker relative can be re-enrolled:
  - 1) For caretaker relatives with countable income above 150 percent of the FPL, there must be full payment of premiums under Section 120.510 of FamilyCare, AllKids Premium Levels 1-8 under 89 Ill. Adm. Code 123 or 89 Ill. Adm. Code 125, Health Benefits for Workers with Disabilities under Section 120.510 of this Part, or Veterans Care under 89 Ill. Adm. Code 128, for periods in which a premium was owed, including premiums owed when the caretaker relative was, for purposes of this Part, a member of another family;
  - 2) For persons with countable income above 150 percent of the FPL, any overpayment of rebates must be repaid to the Department. A rebate overpayment shall be considered repaid if the Department can recoup the overpayment out of future rebate payments; and
  - 3) The first month's premium must be paid if the caretaker relative is eligible for FamilyCare Premium Level 1 and there was an unpaid premium on the date the caretaker relative's previous eligibility was cancelled.
- i) An application will be denied if any of the eligible caretaker relatives with income above 150 percent of the FPL in the family was responsible as a caretaker relative, or eligible as a caretaker relative during a period for which a premium under FamilyCare was due to the Department, and the premium remains unpaid at the time of application. That application shall be denied, regardless of whether the caretaker relative for whom the premium remains unpaid is included in the application.

(Source: Emergency repealed at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for maximum of 365 days)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

**Section 120.80 Recipient Restriction Program**

**EMERGENCY**

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- a) The Recipient Restriction Program (RRP) shall identify recipients who unnecessarily utilize medical services. When the Department determines, on the basis of statistical norms and the medical judgment of individual practitioners and/or pharmacists, that a Medicaid recipient has received medical services that are not medically necessary based on the recipient's diagnoses and/or medical condition or conditions or in such a manner as to constitute an abuse of medical privileges, the decision to restrict a recipient to one or more primary provider types will be made. For purposes of this Section, "primary provider type" means ~~a provider type as determined by the Department, a primary care provider, primary care pharmacy, primary care dentist, primary care podiatrist, or primary durable medical equipment provider.~~ RRP applies to all medical assistance programs administered by the Department, with the exception of full risk Managed Care Organizations (MCO).
- b) Primary and Secondary Sources of Recipient Identification
  - 1) The primary source of recipient identification shall be the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System (MMIS). On an ongoing basis, SURS analyzes the Medicaid population, determines medical usage per recipient and will identify recipients with usages in excess of the established norm of recipients in the same category of assistance and like demographic areas.
  - 2) Secondary sources of identification shall be incoming referrals, such as referrals from medical providers, law enforcement officials or members of the general public. All referrals shall be reviewed and analyzed. Recipients found to have loaned or altered their medical cards for the purpose of obtaining medical benefits for which they or other persons are not legitimately entitled; falsely represented medical coverage; found in possession of blank or forged prescription pads; or who knowingly assisted providers in rendering excessive services or defrauding the Medical Assistance Program shall be restricted.
- c) Once a recipient is identified, medical usage based on diagnoses and/or medical condition for the preceding 24 months shall be reviewed. Medical Assistance Consultants and licensed individual practitioners and/or pharmacists will determine if the recipient should be restricted due to the medical services received being not medically necessary. The Department shall initially designate, without regard to choice, a primary provider type or types (type). The Department's designation shall remain in effect for the entire period of the restriction unless the recipient changes this designation pursuant to subsection (f) of this Section. Each

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recipient to be restricted will be notified in writing. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.

- d) Department Designated Primary Provider Type
  - 1) The Department will select the applicable primary provider type in reasonable geographical proximity to the recipient's home to serve as the recipient's primary provider type.
  - 2) The primary provider type must be a properly enrolled Medicaid provider in good standing with the Department, properly licensed and credentialed and willing to serve as a primary provider type.
  - 3) If a primary care provider is selected as the primary provider type, he or she shall be a medical doctor or doctor of osteopathy licensed to practice medicine in all of its branches or a clinic enrolled to provide primary care.
  
- e) Types of Services Provided or Authorized
  - 1) Once restricted, the Recipient Eligibility Verification (REV) system shall display information regarding the primary provider type. REV will also display information that emergency services will not be restricted.
  - 2) If restricted to a primary care provider, the primary care provider must provide or authorize the following non-emergency ambulatory care services for the restricted recipient before the Department will render payment for the services:
    - A) Clinic
    - B) Laboratory
    - C) Outpatient Hospital
    - D) Pharmacy
    - E) Physician
  - 3) If restricted to a primary care pharmacy, the primary care pharmacy must

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supply all prescriptions for the restricted recipient. Authorization to obtain non-emergency prescriptions from any other source will only be approved when a specific item is not part of the primary care pharmacy's inventory and cannot be acquired through the primary care pharmacy.

- 4) If restricted to a primary care dentist, the primary care dentist must provide or authorize all dental services for the restricted recipient before the Department will render payment for the dental services.
  - 5) If restricted to a primary care podiatrist, the primary care podiatrist must provide or authorize all podiatric services for the restricted recipient before the Department will render payment for the podiatric services.
  - 6) If restricted to a primary durable medical equipment provider, the primary durable medical equipment provider must supply all medical supplies for the restricted recipient. Authorization to obtain medical supplies from any other source will only be approved when a specific item is not part of the primary durable medical equipment provider's inventory and cannot be acquired through the primary durable medical equipment provider.
  - 7) Other covered services may be provided by a qualified provider in the Department's Medical Program.
- f) Changing the Designated Primary Provider Type
- 1) The recipient may change the Department's initial designation of a primary provider type once without cause. The request for change must be submitted to the Department in writing. The Department, by notice, shall inform the recipient how to request a change in primary provider type.
  - 2) The recipient may change his or her designated provider for cause if one of the following circumstances is verified:
    - A) Change of recipient's residence from the geographical area of the primary provider type;
    - B) Change in the recipient's medical condition that the primary provider type is unable to treat or refer to another provider;
    - C) Death of the primary provider type;

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- D) Disenrollment of the primary provider type from the Medical Assistance Program; and
  - E) Notice from the primary provider type that he, she or it will no longer serve as the primary provider type.
  - 3) The Department will notify the recipient in writing if the primary provider type has disenrolled as a provider of Medicaid services or if the provider notifies the Department of his, her or its unwillingness to continue to serve as the recipient's primary provider type.
  - 4) Changes in designated primary provider type shall be processed effective with the earliest possible date reflected on the eligibility file.
  - 5) For the designated primary provider type, the Department will determine if the requested change meets the criteria in subsection (d) of this Section.
- g) Length of Restriction
- 1) Once recipients are restricted they remain in restriction for a minimum of four full quarters. If restricted recipients transfer to a different assistance unit, the restriction will be processed to follow the recipient. If a restricted recipient becomes inactive and is subsequently reactivated, the restriction will be reactivated until such time as four full quarters have elapsed.
  - 2) Reevaluation of the Recipient's Medical Usage
    - A) When a recipient has had his or her medical card restricted for four full quarters, the Department shall reevaluate the recipient's medical usage to determine whether the recipient continues to receive medical services that are not medically necessary. The Department shall evaluate each case not later than eighteen months after the effective date of restriction. If the recipient is still receiving medical services that are not medically necessary, the restriction shall be continued for an additional period of eight full quarters. This additional period of eight full quarters shall begin with the first month immediately following the end of the first four full quarter restriction period. If the recipient no longer is receiving medical services that are not medically necessary, the restriction shall be discontinued. A "quarter", for purposes of this Section, shall be defined as one of the following three-month

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periods of time: January-March, April-June, July-September or October-December.

- B) If necessary to determine if medical services that are not medically necessary are still being received, the Department shall obtain a complete copy of the recipient's medical record from the primary provider type. The medical record will be reviewed by the Medical Assistant Consultant with a final determination by a licensed individual practitioner to determine if the medical services received were medically necessary.
  - C) If the decision is to release the recipient from restriction, such release will be processed effective with the earliest possible date reflected on the eligibility file.
  - D) If the services are determined to be medically unnecessary, the recipient will be notified in writing of the continued restriction. The Department may designate a different individual provider type. The criteria in subsection (d) of this Section shall apply. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.
- 3) If the restriction is continued, a review will be conducted in accordance with subsection (g)(2) of this Section, subsequent to the additional eight quarter period.
  - 4) A recipient who has been restricted under this Section, is released and then is restricted under this Section a subsequent time, shall be restricted for a period of eight full quarters. Subsequent to this eight quarter period, a review will be conducted in accordance with subsection (g)(2) of this Section.
- h) Recipients have the right to appeal inclusion in the program. (See 89 Ill. Adm. Code 102.80 through 102.84.)
  - i) Any recipient in the RRP who subsequently enrolls in a full risk MCO will be released from the RRP.

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(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)

SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

**Section 120.347 Treatment of Trusts and Annuities**

**EMERGENCY**

- a) This Section applies to trusts established on or after August 11, 1993.
- b) A trust is any arrangement in which a grantor transfers property to a trustee or trustees with the intention that it be held, managed or administered by the trustee or trustees for the benefit of the grantor or designated beneficiaries. A trust also includes any legal instrument or device that is similar to a trust, including an annuity.
- c) A person shall be considered to have established a trust if resources of the person were used to form all or part of the principal of the trust and the trust is established (other than by will) by any of the following:
  - 1) the person;
  - 2) the person's spouse; or
  - 3) any other person, including a court or administrative body, with legal authority to act on behalf of or at the direction of the person or the person's spouse.
- d) This Section does not apply to the following trusts:
  - 1) an irrevocable trust containing the resources of a person who is determined disabled (as provided in Section 120.314) and under age 65 that is established by a parent, grandparent, legal guardian or court for the sole benefit (as defined in Section 120.388(m)(2)) of the person, if language contained in the trust stipulates that any amount remaining in the trust (up to the amount expended by the Department on medical assistance) shall be paid to the Department upon the death of the person. This exclusion continues after the person reaches age 65 as long as the person continues to be disabled but any additions made by the person to the trust after age 65 will be treated as a transfer of assets under Sections 120.387 and 120.388. If the trust contains proceeds from a personal injury settlement, any Department charge (as described at 89 Ill. Adm. Code

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102.260) must be satisfied in order for the trust to be excluded under this subsection; or

- 2) an irrevocable trust containing the resources of a person who is determined disabled (as provided in Section 120.314) that is established and managed by a non-profit association that pools funds but maintains a separate account for each beneficiary that is established by the disabled person, a parent, grandparent, legal guardian or court for the sole benefit of the disabled person, if language contained in the trust stipulates that any amount remaining in the trust (up to the amount expended by the Department on medical assistance) that is not retained by the trust for reasonable administrative costs related to wrapping up the affairs of the subaccount shall be paid to the Department upon the death of the person. ~~This exclusion continues after the person reaches age 65 as long as the person continues to meet the definition of disabled (to the extent permitted under federal law). Any funding of a subaccount in a pooled trust by a person over age 64 will be treated as a transfer for fair market value under Section 120.388 so long as the person meets the definition of disabled.~~ After a person reaches age 65, any funding by or on behalf of the person to the trust shall be treated as a transfer of assets for less than fair market value unless the person is a ward of a county public guardian or the State guardian pursuant to Section 13-5 of the Probate Act of 1975 or Section 30 of the Guardianship and Advocacy Act and lives in the community or the person is a ward of a county public guardian or the State guardian pursuant to Section 13-5 of the Probate Act of 1975 or Section 30 of the Guardianship and Advocacy Act and a court has found that any expenditures from the trust will maintain or enhance the person's quality of life. If the trust contains proceeds from a personal injury settlement, any Department charge (as described at 89 Ill. Adm. Code 102.260) must be satisfied in order for the trust to be excluded under this subsection (d).

- e) Subsections (f) and (g) of this Section apply to the portion of the trust attributable to the person and without regard to:
  - 1) the purpose for establishment of the trust;
  - 2) whether the trustee has or exercises any discretion under the trust; or
  - 3) whether there are any restrictions on distributions or use of distributions from the trust.

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- f) For revocable trusts, the Department shall:
- 1) treat the principal as an available resource;
  - 2) treat as income payments from the trust that are made to or for the benefit of the person; and
  - 3) treat any other payments from the trust as transfers of assets by the person (subject to the provisions of, and depending on the date of the payment, Section 120.387 or 120.388).
- g) For irrevocable trusts, the Department shall:
- 1) treat as an available resource the amount of the trust from which payment to or for the benefit of the person could be made;
  - 2) treat as income payments from the trust that are made to or for the benefit of the person;
  - 3) treat any other payments from the trust as transfers of assets by the person (subject to the provisions of Section 120.387 or 120.388, as applicable); and
  - 4) treat as a transfer of assets by the person the amount of the trust from which no payment could be made to the person under any circumstances (subject to the provisions of Section 120.387 or 120.388, as applicable). The date of the transfer is the date the trust was established or, if later, the date that payment to the person was foreclosed. The amount of the trust is determined by including any payments made from the trust after the date that payment to the person was foreclosed.
- h) Trust Income. For married couples, income from trusts shall be attributed to each spouse as provided in the trust, unless:
- 1) payment of income is made solely to one spouse, in which case the income shall be attributed to that spouse;
  - 2) payment of income is made to both spouses, in which case one-half of the income shall be attributed to each spouse; or

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- 3) payment of income is made to either spouse, or both, and to another person or persons, in which case the income shall be attributed to each spouse in proportion to the spouse's interest, or, if payment is made to both spouses and no such interest is specified, one-half of the joint interest shall be attributed to each spouse.
- i) Annuities are treated similar to trusts.
    - 1) Revocable and assignable annuities are considered available resources.
    - 2) Any portion of an annuity from which payment to or for the benefit of the person or the person's spouse could be made is an available resource. An annuity that may be surrendered to its issuing entity for a refund or payment of a specified amount or provides a lump-sum settlement option is an available resource valued at the amount of any such refund, surrender or settlement.
    - 3) Income received from an annuity by an institutionalized person is considered non-exempt income. Income received by the community spouse of an institutionalized person is treated as available to the community spouse for the purpose of determining the community spouse income allowance under Section 120.379(e).
    - 4) An annuity that fails to name the State of Illinois as a remainder beneficiary as required under Section 120.385(b) shall result in denial or termination of eligibility for long term care services.
  - j) The principal of a trust fund established under the Self Sufficiency Trust Fund Program (see 20 ILCS 1705/21.1) is an exempt resource.

(Source: Emergency amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)

**Section 120.379 Provisions for the Prevention of Spousal Impoverishment**  
**EMERGENCY**

- a) The provisions for the prevention of spousal impoverishment apply only to an institutionalized person (as defined in Section 120.388(c)) whose spouse resides in the community. For purposes of this Section, those persons shall be referred to as the institutionalized spouse and the community spouse.

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- b) **Income.** In determining the financial eligibility of an institutionalized spouse, only non-exempt income attributed to the institutionalized spouse shall be considered available. The following rebuttable presumptions shall apply in determining the income attributed to each spouse:
- 1) if payment of income is made solely in the name of one spouse, the income will be considered available only to that spouse;
  - 2) if payment of income is made in the names of both spouses, one-half of the income shall be considered available to each spouse;
  - 3) if payment of income is made in the names of either spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made to both spouses and no other interest is specified, one-half of the joint interest shall be considered available to each spouse);
  - 4) if payment of income is made from a trust, the income shall be considered available to each spouse as provided under Section 120.347(h); and
  - 5) if there is no trust or instrument establishing ownership, one-half of the income shall be considered available to the institutionalized spouse and one-half to the community spouse.
- c) **Resources.** In determining the financial eligibility of an institutionalized spouse, the following shall apply:
- 1) At the beginning of a continuous period of institutionalization, the total value of resources owned by either or both spouses shall be computed.
  - 2) **Assessment.** Upon the request of an institutionalized spouse, community spouse, or a representative of either, at the beginning of a continuous period of institutionalization, the Department shall conduct an assessment of the couple's resources for the purpose of determining the combined amount of nonexempt resources in which either spouse has an ownership interest. The person requesting the assessment shall be responsible for providing documentation and verification necessary for the Department to complete the assessment.

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- 3) For purposes of this subsection (c), a continuous period of institutionalization is defined as at least 30 days of continuous institutional care. An initial assessment remains effective during that period if:
    - A) a resident of a long term care facility is discharged for a period of less than 30 days and then reenters the facility;
    - B) a resident of a long term care facility enters a hospital and then returns to the facility from the hospital;
    - C) a person discontinues receiving home and community-based services for a period of less than 30 days; or
    - D) a person discontinues receiving home and community-based services due to hospitalization and then is discharged and begins to receive home and community-based services.
  - 4) At the time of an institutionalized spouse's application for medical assistance, all nonexempt resources held by either the institutionalized person, the community spouse, or both shall be considered available to the institutionalized spouse. From this amount may be deducted and transferred to the community spouse the Community Spouse Resource Allowance (CSRA), as provided under subsection (d) of this Section. The remaining amount shall be the total amount of resources considered available to the institutionalized spouse.
- d) Transfer of Resources to the Community Spouse. From the amount of nonexempt resources considered available to the institutionalized spouse, as described in subsection (c)(4) of this Section, a transfer of resources is allowed by the institutionalized spouse to the community spouse or to another individual for the sole benefit (as defined in Section 120.388(m)(2)(B)) of the community spouse in an amount that does not exceed the CSRA. The CSRA is the difference between the amount of resources otherwise available to the community spouse and the greatest of:
- 1) the greater of the minimum amount permitted under 1924(f)(2) of the Social Security Act, 42 USC 1396r-5(f)(2) or established annually by the US Department of Health and Human Services (DHHS) (as of January 1, 2011, \$109,560);

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- 2) the amount established through a fair hearing under subsection (f)(3) of this Section; or
  - 3) the amount transferred under a court order against an institutionalized spouse for the support of the community spouse.
- e) Deductions are allowed from an institutionalized spouse's post-eligibility income (pursuant to Section 120.61(d) and (e)) for a community spouse income allowance and a family allowance. The deductions are determined as follows:
- 1) Community Spouse Maintenance Allowance.
    - A) The amount of monthly income that may be deducted from the institutionalized spouse's post-eligibility income for the benefit of the community spouse is equal to the minimum monthly maintenance needs allowance (MMMNA) less the amount of monthly income otherwise available to the community spouse (as determined under subsection (b) of this Section). The amount established as the MMMNA is greater of the minimum amount permitted under 1924(d)(3) of the Social Security Act, 42 USC 1396r-5(d)(3) or (as of January 1, 2011, \$2,739 per month) shall be provided for calendar years after 2011 by DHHS.
    - B) The deduction is allowed only to the extent the income of the person is in fact contributed to the community spouse. However, the deduction for the community spouse income allowance shall not be less than the amount ordered by a court for support of the community spouse or the amount determined as the result of a fair hearing provided for under subsection (f) of this Section.
    - C) For purposes of this Section, all income of the institutionalized spouse that can be made available to the community spouse shall be made available before resources may be transferred in excess of the CSRA specified under subsection (d)(1) of this Section that will generate income to make up the difference between the MMMNA and the amount of income available to the community spouse.
  - 2) Family Allowance. The amount of monthly income that may be deducted from the institutionalized spouse's post-eligibility income for the benefit of each family member is equal to one-third of the difference between the

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family maintenance needs standard (150% of the annual Federal Poverty Level for two persons) and any nonexempt income of the family member. Family members only include dependent children under age 21, dependent adult children, dependent parents or dependent siblings of either spouse who reside with the community spouse.

- 3) A deduction is also allowed from the institutionalized spouse's post-eligibility income for dependent children under age 21 who do not reside with the community spouse pursuant to Section 120.61(e)(5).
  - 4) The term "dependent" has the meaning ascribed to a "qualified" person under 26 USC 152.
- f) Fair Hearings. Either the institutionalized spouse or the community spouse may request a hearing (as described in 89 Ill. Adm. Code 104.1) under this Section for the following reasons:
- 1) either spouse is dissatisfied with a determination of:
    - A) the community spouse income allowance under subsection (e)(1) of this Section;
    - B) the amount of the monthly income treated as otherwise available to the community spouse (as applied under subsection (e)(1) of this Section);
    - C) the attribution of resources under subsection (c)(4) of this Section; or
    - D) the determination of the CSRA under subsection (d) of this Section.
  - 2) Either spouse may request an increase in the MMMNA under subsection (e)(1). If either spouse establishes that, due to exceptional circumstances resulting in significant financial duress, the community spouse needs income above the level provided by the MMMNA, an amount adequate to provide that additional income shall be substituted. For purposes of this subsection (f)(2), significant financial distress means expenses that the community spouse incurs in excess of the income standard, including:

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- A) recurring or extraordinary medical expenses of the community spouse that are not covered by any third party resource, including insurance or the Medical Assistance Program;
  - B) amounts necessary to preserve, maintain or make major repairs to homestead property; or
  - C) amounts necessary to preserve an income producing resource, subject to the limitations on that property under Section 120.381(a)(3) and as long as the expense is reasonable in relation to the income produced by the resource.
- 3) Either spouse may request that an alternative CSRA be substituted for the standard CSRA calculated under subsection (d) of this Section if it can be established that the standard CSRA (in relation to the amount of income it generates) is inadequate to raise the community spouse's income to the MMMNA.
- A) Before a substitute CSRA may be allocated under this subsection (f)(3), the amount of income attributed to the institutionalized spouse that may be transferred to the community spouse under subsection (e) of this Section shall first be considered available to raise the community spouse's income to the MMMNA.
  - B) If the sum of income otherwise available to the community spouse and income that may be transferred from the institutionalized spouse is insufficient to raise the community spouse's income to the MMMNA, then a substitute CSRA may be allowed. The amount the substitute CSRA may exceed the CSRA provided for under subsection (d) of this Section is limited to the amount of resources necessary to generate income to raise the community spouse's total income to the MMMNA.
  - C) In determining the amount of income that a substitute CSRA under this subsection (f)(3) may generate, the Department will use, for purposes of comparison, the cost to purchase an actuarially sound single premium life annuity producing monthly payments that, when added to the community spouse's total income, will be sufficient to raise the community spouse's income to, but not more than, the MMMNA. If resources are insufficient to purchase an annuity that will raise the community spouse's income to the

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MMMNA, the Department will measure the amount of an allowable increase in the CSRA by the cost to purchase an actuarially sound single premium life annuity producing monthly payments using available resources.

- D) It is the requesting person's responsibility to provide the Department with an estimate from a reputable company of the cost to purchase the annuity described in subsection (f)(3)(C).
  - E) The Department may compare the estimate with available information on the cost of other single premium life annuities.
  - F) In calculating the amount of the community spouse's income after approval of a substitute CSRA, the Department shall deem the amount of the monthly annuity payments as being available to the community spouse, although it will not require the actual purchase of an annuity.
- g) The appeal hearing described in subsection (d)(2) of this Section shall be held within 30 days after the date the appeal is filed.
  - h) A transfer of resources under subsection (d) of this Section from the institutionalized spouse to the community spouse shall be made as soon as practicable after the date of initial determination of eligibility and before the first regularly scheduled redetermination of eligibility, taking into account such time as may be necessary to obtain a court order under subsection (d)(3) of this Section. If a transfer of resources to a community spouse has not been made by the first scheduled redetermination and no petition for an order of spousal support is pending judicial review, the resources shall be considered available to the institutionalized spouse.
  - i) Assignment of Support Rights. The institutionalized spouse shall not be ineligible by reason of resources determined under subsection (c)(4) to be available for the cost of care when:
    - 1) the institutionalized spouse has assigned to the State any rights to support from the community spouse (see Section 120.319);
    - 2) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment, but the State has the right to bring a

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support proceeding against a community spouse without that assignment;  
or

- 3) the State determines that denial of eligibility would work an undue hardship (see Section 120.388(r)(1)).

j) If an institutionalized spouse or community spouse refuses to provide the Department the total value of assets, including income and resources, to the extent either the institutionalized spouse or community spouse has ownership interest in them, such refusal may result in the institutionalized spouse being denied eligibility and continuing to remain ineligible for long term care based on failure to cooperate.

k) The Department may pursue any available legal process to enforce its right of assignment to support against the community spouse or any other responsible person pursuant to Section 120.319. ~~These processes may include, but shall not be limited to, the administrative support procedures provided under 89 Ill. Adm. Code 103.~~

1) The Department may seek support for an institutionalized spouse who has assigned his or her right of support from his or her spouse to the State, from the resources and income available to the community spouse.

2) The Department may bring an action in the circuit court to establish support orders or itself establish administrative support orders by any means and procedures authorized under the Public Aid Code, as applicable, except that the standard and regulations for determining ability to support in Section 10-3 of the Public Aid Code shall not limit the amount of support that may be ordered.

3) Proceedings may be initiated to obtain support, or for the recovery of aid granted during the period such support was not provided, or both, for the obtaining of support and the recovery of the aid provided. Proceedings for the recovery of aid may be taken separately or they may be consolidated with actions to obtain support. Such proceedings may be brought in the name of the person or persons requiring support or may be brought in the name of the Department, as the case requires.

4) The orders for the payment of moneys for the support of the person shall be just and equitable and may direct payment thereof for such period or periods of time as the circumstances require, including support for a

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period before the date the order for support is entered. In no event shall the orders reduce the community spouse resource allowance below the level established in subsection (d) of this Section or an amount set after a fair hearing pursuant to subsection (f) of this Section, whichever is greater, or reduce the monthly maintenance allowance for the community spouse below the level permitted pursuant to subsection (e) of this Section.

(Source: Emergency amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)

**Section 120.380 Resources**

**EMERGENCY**

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- a) Unless otherwise specified and for purposes of this Part, the term "resource" (as defined in 42 USC 1382b, except subsection (a)(1) of that section, which excludes the home as a resource) means cash or any other personal or real property that a person owns and has the right, authority or power to liquidate.
- b) A resource is considered available to pay for a person's own care when at the disposal of that person; when the person has a legal interest in a liquidated sum and has the legal ability to make the sum available for support, maintenance or medical care; or when the person has the lawful power to make the resource available or to cause the resource to be made available.
- c) The value of nonexempt resources shall be considered in determining eligibility for any means-tested public benefit program administered by the Department, the Department of Human Services or the Department on Aging if eligibility is determined, in part, on the basis of resources as provided under this Section.
- d) Determination of Resources.
  - 1) In determining initial financial eligibility for medical assistance, the Department considers nonexempt verified resources available to a person as of the date of decision on the application for medical assistance. The date of verification (see Section 120.308(f)) may be prior to the date of decision. Resources applied to a spenddown obligation in a retroactive month (see Section 120.61(b)) shall not be treated as available in the determination of initial financial eligibility. Money considered as income for a month is not considered a resource for that same month. If income for a month is added to a bank account that month, the Department will subtract the amount of income from the bank balance to determine the

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resource level. Any income remaining in the following months is considered a resource.

- 2) An applicant for medical assistance may be eligible for up to 3 months prior to the date of application if the person would have been eligible for medical assistance at the time he or she received services if he or she had applied, regardless of whether the person is alive when the application for medical assistance is made. In determining financial eligibility for retroactive months, the Department will consider the amount of income and resources and exemptions available to a person as of the first day of each of the backdated months for which eligibility is sought. ~~Resources spent prior to the end of the month of application to purchase a Pre-paid Funeral/Burial Contract in compliance with Section 120.381(b), (c) or (d), to pay for incurred medical expenses or to pay legal fees up to \$10,000 (which shall be adjusted annually for any increase in the Consumer Price Index), incurred in the month of application or in any of the three months prior to the month of application, that are related to the eligibility application for long term care assistance shall not be considered available.~~
  - 3) In determining a person's spenddown obligation (see Section 120.384), the Department considers the amount of nonexempt resources available as of the date of decision, in the case of initial eligibility, and the first day of the month, in the case of retroactive eligibility, that are in excess of the applicable resource disregard (see Section 120.382).
- e) Subject to subsection (c) of this Section and 89 Ill. Adm. Code 113.140, the entire equity value of jointly held resources shall be considered available in determining a person's eligibility for assistance, unless:
- 1) The resource is a joint income tax refund, in which case one-half of the refund is considered owned by each person; or
  - 2) The person documents that he or she does not have access to the resource. Appropriate documents may include, but are not limited to, bank documents, signature cards, trust documents, divorce papers, and papers from court proceedings that show the person is legally unable to access the resource; or
  - 3) The resource is held jointly with an individual eligible under any means-tested public health benefit program (other than the Supplemental

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Nutrition Assistance Program) administered by the Department, the Department of Human Services, or the Department on Aging; or

- 4) The person can document the amount of his or her legal interest in the resource and that such amount is less than the entire value of the resource, then the documented amount shall be considered. Appropriate documentation may include, but is not limited to, bank documents, trust documents, signature cards, divorce papers, or court orders that show the person's legal interest is less than the entire value of the resource; or
  - 5) The person documents that the resource or a portion of the resource is not owned by the person and the person's accessibility to the resource is changed (see subsections (e)(2) and (4) of this Section for documentation examples).
- f) In determining the eligibility of a person for long term care services whose spouse resides in the community, all nonexempt resources owned by the institutionalized spouse, the community spouse, or both shall be considered available to the institutionalized spouse in determining his or her eligibility for medical assistance. From the total amount of such resources may be deducted a Community Spouse Resource Allowance as provided under Section 120.379.
  - g) Trusts established prior to August 11, 1993 shall be treated in the manner described in Section 120.346.
  - h) Trusts established on or after August 11, 1993 shall be treated in the manner described in Section 120.347.
  - i) The value of a life estate shall be determined at the time the life estate in the property is established and at the time the property (for example, resources) is liquidated. In determining the value of a life estate and remainder interest based on the value of the property at the time the life estate is established or of the amount received when the property is liquidated, the Department shall apply the values described in Section 120.Table A. The life estate and remainder interest are based on the age of the person at the time the life estate in the property is established and at the time the property is liquidated and the corresponding values described in Section 120.Table A.
  - j) A person's entrance fee in a continuing care retirement community or life care community (as those entities are described in 42 USC 1396r(c)(5)(B)) shall be considered an available resource to the extent that:

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- 1) the person has the ability to use the entrance fee, or the contract provides that the entrance fee may be used to pay for care should other resources or income of the person be insufficient to pay for the care;
  - 2) the person is eligible for a refund of any remaining entrance fee when the person dies or terminates the continuing care retirement community or life care community contract and leaves the community; and
  - 3) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.
- k) Non-homestead real property, including homestead property that is no longer exempt (see Section 120.381(a)(1)), is considered an available resource unless:
- 1) the property is exempted as income-producing to the extent permitted under Section 120.381(a)(3); ~~except Section 120.381(a)(3) shall not apply to farmland property and personal property used in the income-producing operations related to the farmland (e.g., equipment and supplies, motor vehicles, tools, etc.);~~
  - 2) ownership of the property consists of a fractional interest of such a small value that a substantial loss to the person would occur if the property were sold;
  - 3) the property has been listed for sale, in which case the property will not be counted as available for at least six months as long as the person continues to make a good faith effort to sell the property. This effort can be verified by evidence, including advertisements or documentation of the listing of the property with licensed real estate agents or brokers that includes a report of any offer from prospective buyers. The Department will review cases in which the property has not been sold after six months and will consider the following factors in determining if extensions of the initial six months are warranted:
    - A) the asking price is less than the fair market value of the property;
    - B) the property is marketed through a qualified realtor who is acting in good faith;
    - C) there is not a substantial market for the type of property being sold; and

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- D) the person has not rejected any reasonable offer to buy the property; or
- 4) the homestead property that is no longer exempt (see Section 120.381(a)(1)) is producing annual net income for the person in an amount that is not less than six percent of the person's equity value in the property. In determining net income, the Department shall recognize business expenses allowed for federal income tax purposes.

(Source: Emergency amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)

**Section 120.381 Exempt Resources**

**EMERGENCY**

- a) The following resources are exempt from consideration in determining eligibility for medical assistance:
  - 1) Homestead Property.
    - A) Homestead property is any property in which a person (and spouse, if any) has an ownership interest and that serves as the person's principal place of residence. This property includes the shelter in which a person resides, the adjoining land on which the shelter is located and related outbuildings.
    - B) If a person (and spouse, if any) moves out of his or her home without the intent to return, the home is no longer exempt because it is no longer the person's principal place of residence. If a person leaves his or her home to live in a long term care facility, the property is considered exempt, irrespective of the person's intent to return, as long as a spouse or dependent relative of the eligible person continues to live there. The person's equity in the former home is treated as an available resource effective with the first day of the month following the month it is no longer his or her principal place of residence.
    - C) Subject to federal approval, real property, including real property claimed as homestead, held in trust is not exempt unless the Department determines that the person's spouse, minor child or disabled child resides in the property.

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- 2) Personal effects and household goods are exempt to the extent they are excluded under 20 CFR 416.1216.
- 3) Resources (for example, land, buildings, equipment and supplies or tools), including farmland property and personal property used in the income producing operations related to the farmland (for example, equipment and supplies, motor vehicles or tools) necessary for self-support up to \$6,000 of the person's equity in the income producing property are exempt provided the property produces a net annual income of at least six percent of the excluded equity value of the property. The equity value in excess of \$6,000 is not excluded. If the activity produces income that is less than six percent of the exempt equity due to reasons beyond the person's control (for example, the person's illness or crop failure) and there is a reasonable expectation that the property will again produce income equal to six percent of the equity value (for example, a medical prognosis that the person is expected to respond to treatment or that drought resistant corn will be planted), the equity value in the property up to \$6,000 is exempt. If the person owns more than one piece of property and each produces income, each is looked at to determine if the six percent rule is met and then the amounts of the person's equity in all of those properties are totaled to see if the total equity is \$6,000 or less. The total equity value of all properties that is exempt under this subsection is limited to \$6,000.
- 4) Automobile.
  - A) Exclude one automobile, regardless of value, used by the client, spouse or other dependent if:
    - i) it is necessary for employment;
    - ii) it is necessary for the medical treatment of a specific or regular medical problem;
    - iii) it is modified for operation by, or transportation of, a handicapped person;
    - iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or

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- v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Resource Allowance (as described in Section 120.379(d)).
  - B) If not excluded in subsection (a)(4)(A) of this Section, one automobile is excluded to the extent its equity value does not exceed \$4500. Any excess equity value is applied toward the applicable resource disregard (see Section 120.382).
  - C) For all other automobiles, apply the equity value toward the resource disregard (see 89 Ill. Adm. Code 113.142).
- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If the total face value exceeds \$1,500, the cash surrender value must be counted as a resource.
- 6) For purposes of this Section, the term "equity value" refers to:
  - A) in the case of real property, the value described in Section 120.385(c); and
  - B) in the case of personal property, the price that an item can reasonably be expected to sell for on the open market in the particular geographic area involved, minus any encumbrances (as described in Section 120.385(c)(1)(C)).
- b) Burial spaces that are intended for the use of the person, his or her spouse, or any other member of his or her immediate family are exempt. Immediate family is defined as a person's minor and adult children, including adopted children and stepchildren, a person's brothers, sisters, parents and adoptive parents, and the spouses of these individuals.
- c) Funds that are set aside for the burial expenses of a person and his or her spouse in a bank account owned by the person that is clearly identified as a burial fund is exempt up to \$1500. This amount is reduced by the face value of any excluded life insurance on the person and the amount of any funds held in an irrevocable trust or other irrevocable arrangement that is available for burial expenses per person.
- d) Prepaid Funeral/Burial Contracts. Prepaid funeral/burial contracts are exempt to the following extent:

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- 1) Funds in a revocable prepaid funeral/burial contract are exempt up to \$1500, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value.
  - 2) ~~Effective January 1, 2012, funds~~ Funds in an irrevocable prepaid funeral/burial contract are exempt up to ~~\$5,874~~ \$10,000, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program is exempt regardless of value which shall include the costs of both goods and services. This amount shall be adjusted annually for any increase in the Consumer Price Index. The amount exempted shall be limited to the price of the funeral goods and services to be provided upon death. The contract must provide a complete description of the funeral goods and services to be provided and the price thereof. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value.
  - 3) A prepaid, guaranteed price funeral/burial contract ~~up to \$10,000, which shall include the costs of both goods and services and which shall be adjusted annually for any increase in the Consumer Price Index,~~ funded by an irrevocable assignment of a person's life insurance policy to a trust, is exempt. The amount exempted shall be limited to the amount of the insurance benefit designated for the cost of the funeral goods and services to be provided upon the person's death. The contract must provide a complete description of the funeral goods and services to be provided and the price thereof. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value. The trust must include a statement that, upon the death of the person, the State will receive all amounts remaining in the trust, including any remaining payable proceeds under the insurance policy up to an amount equal to the total medical assistance paid on behalf of the person. The trust is responsible for ensuring that the provider of funeral services under contract receives the proceeds of the policy when it provides the funeral goods and services specified under the contract. The irrevocable assignment of ownership of the insurance policy must be acknowledged by the insurance company.
- e) Resources necessary for fulfillment of an approved plan for achieving self-support under 42 CFR 416.1220.

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- f) Resources excluded by express provision of 20 CFR 416.1236 (2009).
- g) *Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control* (for example, not available to the client or the responsible relative) *over the donations or benefits or the disbursement of donations or benefits* [305 ILCS 5/5-2].
- h) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under Public Law 101-201.
- i) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
- j) Disaster relief payments provided by federal, State or local government or a disaster assistance organization.
- k) The amount of earned income tax credit that the client receives as advance payment or as a refund of federal income tax.
- l) For disabled persons who have lost eligibility under Section 120.510 and who are only requesting services other than those described in Section 120.61(a) (except that subsection's reference to services provided through a Community Integrated Living Facility (CILA)), the following additional exemptions shall apply:
  - 1) Retirement accounts that a person with a disability cannot access without penalty before the age of 59½ and medical savings accounts established pursuant to 26 USC 220; and
  - 2) Up to \$25,000 if the person owned assets of equal value when his or her eligibility under Section 120.510 ended.
- m) The amount of damages recovered by a resident of a nursing home for any act that injures the resident pursuant to 210 ILCS 45/3-605.
- n) Certain payments received under the American Recovery and Reinvestment Act of 2009.
  - 1) Payments to World War II veterans who served in the Philippines and spouses of those veterans under Div. A, Title X, Sec. 1002 of P.L. 111-5.

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- 2) Payments or reimbursements for Premium Assistance for COBRA Continuous Coverage under Div. B, Title III, Sec. 3001 of P.L. 111-5.
- o) Certain payments received under the American Recovery and Reinvestment Act of 2009 are exempt as an asset the month of receipt and two months thereafter.
  - 1) Making Work Pay Credit under Div. B, Title I, Sec. 1001 of P.L. 111-5.
  - 2) Tax Credit for Certain Government Retirees under Div. B, Title II, Sec. 2202 of P.L. 111-5.
- p) Economic Recovery Payments under the American Recovery and Reinvestment Act of 2009 under Div B, Title II, Sec. 2201 of P.L. 111-5 are exempt as an asset the month of receipt and nine months thereafter.

(Source: Emergency amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)

**Section 120.385 Factors Affecting Eligibility for Long Term Care Services**

**EMERGENCY**

- a) For purposes of this Section, the terms "institutionalized persons" and "long term care services" shall have the meanings described in Section 120.388 of this Part. The terms "institutionalized spouse" and "community spouse" shall have the meanings described in Section 120.379(a) of this Part.
- b) Disclosure of Annuity and Naming the State as Remainder Beneficiary.
  - 1) Effective January 1, 2012, an application (or redetermination related to an application) for long term care services shall include a disclosure by an institutionalized person or his or her community spouse of any interest either or both may have in any annuity or similar financial instrument purchased, regardless of whether the annuity is irrevocable or is treated as an asset. The application or recertification form shall also include a statement that the State of Illinois becomes a remainder beneficiary under such an annuity or similar financial instrument to the extent that the State has provided medical assistance to the institutionalized person.
  - 2) Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose information or to name the State as a remainder beneficiary as provided for in subsection (b)(1) of this Section,

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or to disclose sufficient information regarding an annuity in order to establish eligibility for long term care services, shall result in denial or termination of the eligibility. Failure of an institutionalized person, his or her community spouse or his or her representative to disclose the information provided for in subsection (b)(1) of this Section, or to disclose sufficient information regarding an annuity in order to establish eligibility for medical assistance, may also result in denial or termination of eligibility for failure to cooperate under Section 120.308.

c) Home Equity Interest.

1) ~~Effective January 1, 2012, a~~ person shall not be eligible for long term care services if the person's equity interest in his or her homestead exceeds ~~the minimum home equity as allowed and increased annually under federal law, 42 U.S.C.A. § 1396p(f)(1)(C), which for calendar year 2012 is \$525,000.~~~~\$750,000.~~ This amount shall be increased, beginning with 2013, from year to year based on the percentage increase in the Consumer Price Index for all urban consumers (all items: United States city average), rounded to the nearest \$1000. A person's equity interest in his or her homestead shall be determined as follows:

- A) The current market value (CMV) of the property is the going price for which it can reasonably be expected to sell on the open market in the particular geographic area involved. The CMV of the property may be established by:
- i) an appraisal report, no more than six months old at the time of the application for long term care services, completed by an appraiser who is licensed or otherwise meets the requirements under the Real Estate Appraiser Licensing Act [225 ILCS 458]; or
  - ii) a county real estate assessor's current estimate of the market value or fair cash value of the property used in determining the assessed value of a property; or
  - iii) any other reliable and verifiable indicia of the price that a property would bring in a sale between a willing buyer and seller under arms-length conditions unaffected by undue pressures;

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- B) Equity value (EV) is the CMV of the property minus any encumbrance on it;
  - C) An encumbrance is a legally binding debt against a specific property. Such a debt reduces the value of the encumbered property but does not necessarily prevent the property owner from transferring ownership (selling) to a third party. However, if the owner of encumbered property does sell, the creditor will nearly always require debt satisfaction from the proceeds of sale. Examples of encumbrances include mortgages, reverse mortgages, home equity loans or other debt that is secured by the property;
  - D) If property is held in any form of shared ownership (e.g., joint tenancy, tenancy in common or other similar arrangement) only the fractional interest in the property shall be considered in determining the person's equity in that property.
- 2) The eligibility of a person for long term care services shall not be affected under this subsection (c) if any of the following are lawfully residing in the person's home:
- A) the person's spouse;
  - B) the person's child who is under age 21; or
  - C) the person's adult child who is blind (as described in Section 120.313 of this Part) or disabled (as described in Section 120.314 of this Part).
- 3) A person whose eligibility for long term care services is affected under this subsection (c) may request a hardship waiver. The process and basis for requesting such a waiver shall be the same as described in Section 120.388(r) of this Part. In determining whether a waiver should be granted, the Department shall also take into account:
- A) the amount of time the person has resided in and owned the home;
  - B) whether a substantial increase in property values in the home's geographic area occurred after the person purchased the home;

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- C) whether the home comprises a substantial portion of the person's assets (as defined in Section 120.388(d)); and
  - D) whether the person intends to return to the home after a period of institutionalization or, if the person does not intend to return, whether the home can be sold after being listed for sale or, if it cannot be sold, can produce income commensurate with similar income producing properties in the geographic area.
- 4) For purposes of this Section the words, "homestead" and "home" have the same meaning as the term "homestead" in Section 120.381(a)(1)(A) of this Part.
- d) Disclosure of Purchase of Promissory Notes, Loans and Mortgages and Assigning Interest to the State.
- 1) Effective January 1, 2012, an application (or redetermination related to an application) for long term care services shall include a disclosure by an institutionalized person or his or her community spouse of any purchase of a promissory note, loan or mortgage either or both may have made. The application or recertification form shall also include a statement that the instrument shall provide for the assignment to the State of Illinois, as of the date of death, of up to the total amount of medical assistance paid on behalf of the institutionalized person.
  - 2) Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose information or to assign interest to the State as provided for in subsection (d)(1) of this Section, or to disclose sufficient information regarding a promissory note, loan or mortgage in order to establish eligibility for long term care services, shall result in denial or termination of the eligibility. Failure of an institutionalized person, his or her community spouse, or his or her representative to disclose the information provided for in subsection (d)(1) of this Section, or to disclose sufficient information regarding a promissory note, loan or mortgage in order to establish eligibility for medical assistance, may also result in denial or termination of eligibility for failure to cooperate under Section 120.308.

(Source: Emergency amended at 36 Ill. Reg. \_\_\_\_\_, effective July 1, 2012, for a maximum of 365 days)